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Attorney for Petitioner: Mohamad Lamea Alatasi

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION**

Mohamad Lamea Alatasi

Plaintiff,

v.

Michael Mukasey, Attorney General of the  
 United States; Michael Chertoff, Secretary of the  
 Department of Homeland Security; Eduardo Aguirre,  
 Director of United States Citizenship & Immigration  
 Services; Michael Mueller, Director of the Federal  
 Bureau of Investigations; Christina Poulos,  
 Acting Director of the California Service Center,

Defendants

E-filing

**FILED**  
 FEB 20 2008  
 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

**CV 08 1028**

Case No. \_\_\_\_\_

**CRB**

COMPLAINT FOR MANDAMUS  
 TO COMPEL DEFENDANTS  
 TO COMPLETE PROCESSING  
 AN APPLICATION FOR  
 NATURALIZATION  
 WAC\*001091670

The Plaintiff Mohamad Lamea Alatasi (hereinafter "Plaintiff"), by and through his undersigned counsel, hereby respectfully petitions this Honorable Court for a Writ of Mandamus to compel action on an application for naturalization for naturalization properly filed by Plaintiff. The naturalization application was filed and remains within the jurisdiction of the Defendants, who have improperly withheld action on said application to Plaintiff's detriment. In support of this petition, the Plaintiff alleges as follows:

**PARTIES**

- The Plaintiff, Alien Registration Number A 070-932-557, is a resident of San Mateo County and a naturalization applicant.



## VENUE

10. Venue is the Northern District of California is proper pursuant to Title 28 USC Section 1391 (e) in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where a Defendant resides and where a substantial part of the events or omissions giving rise to Plaintiff's claim occurred.

## EXHAUSTION OF ADMINISTRATIVE REMEDIES

11. The Plaintiff has exhausted their administrative remedies. Plaintiff has made numerous inquiries concerning the status of the application to no avail.

## THE STATUTORY AND REGULATORY SCHEME OF THE NATURALIZATION PROCESS

12. Congress has created a comprehensive statutory scheme which guarantees that eligible applicants will be naturalized in a prompt and dignified fashion while guaranteeing the integrity of the naturalization process. Defendants, through their regulations, have reinforced the express desire of the Congress for a prompt but accurate naturalization process. 8 USC § 1443-1445 provide the requirements for citizenship and the means of application. 8 CFR § 335.3 provides that "the applicant shall be notified that the application has been granted or denied and, if the application has been granted, of the procedures to be followed for the administration of the oath of allegiance..." 8 USC § 1447(b) provides that if that determination is not made "before the end of the 120-day period after the date on which the examination is conducted", the applicant may apply to the United States District Court for relief.

## THE CHALLENGED PRACTICE

13. The CIS has a duty to adjudicate a naturalization application within a reasonable period of time. When there is no statutory deadline for adjudicating an application, §555(b) of the

1 Administrative Procedures Act (hereinafter “APA”) requires the government to act within a  
2 reasonable amount of time. Kim v. Ashcroft, 340 F. Supp. 2d 384. (S.D.N.Y. 2004).

### 3 **FACTUAL ALLEGATIONS**

- 4 14. Plaintiff is a lawful permanent resident of the United States since March 16, 1999 and a native  
5 and citizen of Syria. He is 47 years old.
- 6 15. On February 23, 2004, Plaintiff applied for naturalization with the Citizenship & Immigration  
7 Services. He had his first fingerprints taken and a naturalization interview was scheduled for  
8 May 2, 2005 at the CIS San Francisco District Office, but was cancelled by the CIS due to  
9 unforeseen circumstances. Plaintiff is still awaiting another interview date on his  
10 naturalization application. Plaintiff has made many inquires on the status of his naturalization  
11 application with the CIS District Office. Notwithstanding all these efforts, Plaintiff has not  
12 received an interview date on his naturalization application up to the present date.

### 13 **CLAIM FOR RELIEF**

- 14 16. Plaintiff alleges that defendants are in violation of the Administrative Procedure Act, 5 USC  
15 section 701 et seq., (a) in that they have unlawfully withheld and unreasonably delayed agency  
16 action to which the Plaintiff is entitled to and (b) in that they have taken action that is arbitrary  
17 and capricious, an abuse of discretion and not in accordance with law, by failing to make a  
18 determination on the naturalization application of the Plaintiff at the time of the initial  
19 examination or within 120 days thereafter.

### 20 **IRREPARABLE INJURY**

- 21 17. As a result of the defendants’ failure to perform their duty, Plaintiff has suffered, and is  
22 suffering and will continue to suffer irreparable harm. Plaintiff has suffered grievously as a  
23

1 result of the protracted and unconscionable delays. He has been deprived of the substantial  
 2 and unique benefits of citizenship, including protection of the laws of the United States equal  
 3 to that granted to citizens; political rights, including the right to vote; the right to obtain a  
 4 United States passport; the protection of the United States government when outside the  
 5 United States; freedom of movement and travel, etc. He also has been subjected to the fear  
 6 and uncertainty engendered by the inability to obtain citizenship; the inability to travel and  
 7 carry out necessary activities out of concern he may miss a long-delayed sworn-in ceremony,  
 8 the inability to file visa petitions for immediate relatives as a United States citizen, etc.

10 **REQUEST FOR RELIEF:**


11 WHEREFORE, Plaintiff request that this Court:

- 12
- 13
- 14 1. Accept jurisdiction and maintain continuing jurisdiction of this action;
  - 15 2. Issue a writ in the nature of mandamus, pursuant to 28 USC § 1361 and 5 USC § 706(1)
  - 16 compelling Defendants and their agents to make a determination of the naturalization application
  - 17 of the Plaintiff, to notify the Plaintiff that his application has been granted or denied, and if
  - 18 granted, of the procedures to be followed for the administration of the oath of allegiance, within
  - 19 20 days of the issuance of such writ.
  - 20
  - 21 3. Grant attorneys' fees and costs of this suit under the Equal Access to Justice Act, 28 USC § 2412.
  - 22
  - 23 4. Grant such other relief as this Court may deem just and proper.
  - 24

25 Respectfully submitted,

26 2/14/08

Attorneys for Plaintiff



Robert L. Volz  
Attorney for Plaintiff